

**ORIGINAL**

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**FEB 29 2008**

JAMES N. HATTEN, Clerk  
By: *[Signature]* Deputy Clerk

MARILYN MELDER, et al., )

Plaintiffs, )

v. )

STATE FARM MUTUAL )  
AUTOMOBILE INSURANCE )  
COMPANY, STATE FARM FIRE )  
AND CASUALTY COMPANY et )  
al., )

Defendants-Movants. )

CIVIL ACTION NO.  
2:03-CV-2499\*

\* Action is pending in the United  
States District Court for the Eastern  
District of Louisiana

Miscellaneous Action No.

**1 08-MI-0075**

**RWS**

**STATE FARM'S MOTION TO QUASH SUBPOENAS ISSUED BY  
COUNSEL FOR PLAINTIFFS ON BEHALF OF THIS COURT TO  
CHOICE POINT, INC. and MOSTCHOICE.com, INC.  
AND FOR PROTECTIVE ORDER**

Pursuant to Rules 45 and 26 of the Federal Rules of Civil Procedure, State Farm Mutual Automobile Insurance Company and State Farm Fire and Casualty Company ("State Farm"), defendants in the above-styled case pending in the Eastern District of Louisiana, move this Court to quash two Rule 45 subpoenas issued by Plaintiff's Counsel pursuant to Rule 45(a)(3) of the Federal Rules of Civil Procedure and enter a protective order as to the documents sought by the non-party subpoenas. Plaintiffs' subpoenas seek

documents and purport to require non-parties Choice Point, Inc. and MostChoice.com, Inc. to produce and permit inspection of “any and all information on sales of leads” provided to State Farm or any of its subsidiaries.


This Court should quash the two subpoenas and enter a protective order as to the documents sought by the non-party subpoenas for several reasons. First, the subpoenas seek information that is currently being sought by Plaintiffs directly from State Farm in this case currently pending in the Eastern District of Louisiana (“the forum court”). The fact that this information has been already sought directly from State Farm and is the subject of a fully-briefed motion to compel pending before the forum court is alone a sound basis for this Court to quash the subpoenas. It is clear that Plaintiffs are attempting to use non-party subpoenas to circumvent the discovery process in the forum court and make an end-around of the discovery dispute pending there. Second, as argued in the matter pending in the Eastern District of Louisiana, the information sought extends beyond the scope of the actual claims alleged by Plaintiffs and any defenses or other subject matters raised by the pleadings in the instant case. Third, pursuant to Fed. R. Civ. P. 45(a)(2)(C), the subpoenas issued from this Court are

procedurally deficient, and respectfully, this Court lacks jurisdiction to enforce them, as Plaintiffs explicitly seek to compel the production and inspection to be made at Plaintiff's counsel's office in Slidell, Louisiana, which is outside this district and beyond its subpoena powers. Fourth, the subpoenas are overbroad by definition, in seeking "any and all information" without providing any further specificity or limitations, and by lacking any temporal limitation. For any and all of the reasons, this Court should quash the subpoenas and enter a protective order as to the documents sought by it.

In support of this motion, State Farm relies on its supporting memorandum, filed contemporaneously with this motion.

State Farm additionally contemporaneously files an Appendix of Exhibits in supporting of this motion.<sup>1</sup>

Respectfully submitted this 29<sup>th</sup> day of February, 2008.



CARI K. DAWSON  
Georgia Bar No. 213490  
KYLE G.A. WALLACE  
Georgia Bar No. 734167  
ALSTON & BIRD LLP  
One Atlantic Center  
1201 West Peachtree Street

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<sup>1</sup> Counsel for Movant's certification of good faith effort to confer and resolve without court action is attached as Exhibit H of the Appendix of Materials.

Atlanta, Georgia 30309-3424  
(404) 881-7000  
(404) 881-7777 (*Facsimile*)  
Email: [cari.dawson@alston.com](mailto:cari.dawson@alston.com)  
Email: [kyle.wallace@alston.com](mailto:kyle.wallace@alston.com)

*Attorneys for Defendant*

**Of Counsel:**

Wayne J. Lee  
Samantha P. Griffin  
Kevin W. Reed  
Stone Pigman Walther Wittmann, LLC  
546 Corondelet Street  
New Orleans, LA 70130-3588  
(504) 581-3200

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**CERTIFICATE OF SERVICE**

This is to certify that I have this date served **STATE FARM'S  
MOTION TO QUASH SUBPOENAS ISSUED BY COUNSEL FOR  
PLAINTIFFS ON BEHALF OF THIS COURT TO CHOICE POINT,  
INC. and MOSTCHOICE.com, INC. AND FOR PROTECTIVE  
ORDER** upon the counsel for Plaintiffs and the interested non-parties in the  
foregoing matter a copy of the by U.S. Mail, postage prepaid and addressed  
as follows:

Tom W. Thornhill  
Thornhill & Collings, L.C.  
1308 Ninth Street  
Slidell, LA 70458

Choice Point, Inc.  
Annette Gaines, Esq., General Counsel  
1000 Alderman Drive  
Alpharetta, GA 30005

MostChoice.com, Inc.  
Ryan L. Isenberg, Esq.  
7000 Peachtree-Dunwoody Road, Bldg. 15, Ste. 100  
Atlanta, GA 30328

This 29<sup>th</sup> day of February, 2008.

  
CARI K. DAWSON